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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,586	03/13/2001	John Anthony Lotspih	DP-301891	1171

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EXAMINER

EDELL, JOSEPH F

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,586

Applicant(s)

LOTSPIH, JOHN ANTHONY

Examiner

Joseph F Edell

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- ☐ Interview Summary (PTO-413) Paper No(s) _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 11, and 12 define the expansion restraining elements remain operative *without failing*, however the specification does not convey to one skilled in the art what parameters determine a successful and/or failing expansion restraining element.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 7-15, and 18-20, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,065,772 to Yamamoto et al. in view of U.S. Patent No. 6,129,377 to Okumura et al.

Yamamoto et al. disclose an air bag assembly that is basically the same as that recited in claims 1-4, 7-15, and 18-20, as best understood, except that both expansion restraint elements do not remain operative and the cushion is not formed from a single piece of material, as recited in the claims. Figures 1-12(d) of Yamamoto et al. teach an air bag assembly having an inflator 22 (Fig. 11a), a first inflatable portion 51 (Fig 11a), a second inflatable portion 53 (Fig. 11c), a first expansion restraining element 55 (Fig. 11a) extending partially but not completely across the width of the air bag cushion in substantially nonparallel relation to the flow path of the inflation medium, and a second expansion restraining element 57 (Fig. 11b) extending partially but not completely across the air bag cushion in opposing staggering relation to the first expansion element in substantially nonparallel relation to the flow path of the inflation medium. Okumura et al. show an air bag assembly similar to that of Yamamoto et al. wherein the cushion 15 (Fig. 9) is formed from a single piece of woven textile that is folded and enclosed with a perimeter seam and the two expansion restraint elements 22 (Fig. 4) remain operative upon full inflation. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the air bag assembly of Yamamoto et al. such that the cushion is formed from a single piece of woven fabric and the expansion restraint elements remain operative upon full inflation, such as the air bag assembly disclosed in Okumura et al. One would have been motivated to make such a modification in view of the suggestion in Okumura et al. that an air bag formed from a single piece of woven fabric is simple to manufacture and the expansion restraint elements that remain operative upon inflation allow for smooth flow of inflating gas.

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5. Claims 5, 6, 16, and 17, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al. in view of Okumura et al. as applied to claims 1-4, 7-15, and 18-20, as best understood above, and further in view of U.S. Patent No. 5,618,595 to Matsushima et al.

Yamamoto et al., as modified, disclose an air bag assembly that is basically the same as that recited in claims 5, 6, 16, and 17, as best understood, except that the cushion yarn density is not specified, as recited in the claims. Matsushima et al. show an air bag assembly similar to that of Yamamoto et al. wherein the cushion 1 (Fig. 1) has a density of about 840 denier (see column 1, lines 18-20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the air bag assembly of Yamamoto et al. such that the cushion has a yarn density of about 105 denier to about 840 denier and denier per filament of yarns in the range of about 3 to about 6, such as the air bag assembly disclosed in Matsushima et al. One would have been motivated to make such a modification in view of the suggestion in Matsushima et al. that the linear density of about 840 denier is average.

Response to Arguments

6. Applicant's arguments with respect to amended claims 1-10 have been considered but are moot in view of the new ground(s) of rejection. In response to the applicant's argument regarding claim 11 that a combination of references would not be rendered obvious because Yamamoto et al. teach a tear seam 57, the test for obviousness is not whether the features of a secondary reference may be bodily

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incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art and does not include knowledge gleaned only from the applicant's disclosure. See above for motivation to combine the references.


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE

February 7, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600